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heel portion on a first side of the footwear to a second side, a second portion extending through said transverse passageway from said second side to said first side, and a third portion extending transversely across the user's instep from said first side to a heel portion on said second side of said footwear, said first and said third portions of said X-strap assembly forming an X-configuration over the user's instep, and

an adjustable fastener for adjusting the length of said X-strap assembly.

REMARKS

Drawing & Specification

In the office action, the Examiner objected to the drawing as failing to comply with 37 CFR 1.84(o)(5) because the figures include the following reference sign(s) not mentioned in the description: reference number 158 in Figure 8 and reference number 13 in Figure 1. Furthermore, the Examiner objected to the drawing and specification stating that the drawing fails to include the following reference sign(s) mentioned in the description: reference number 63 as recited on page 10, line 5 and reference number 187 as recited on page 13, line 10.

Applicants have amended the drawing, as indicated in red on the attached revised figures, to remove reference number 158 from Figure 8 and reference number 13 from Figure 1. Applicants have further amended the drawing by inserting reference number 63 in Figure 5, and reference number 187 in Figure 9. No new matter has been added. The objections to the specification are obviated by these changes, and Applicants respectfully request withdrawal of the objections to the drawing and specification.

Claims

In the office action, claims 1-6 stand rejected under 35 USC §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants note that the claims, as amended, particularly point out and distinctly

claim the subject matter regarded as the invention. Applicants respectfully request withdrawal of this rejection.

Applicants thank the Examiner for the indication of allowability for claims 3-5 if rewritten to include the limitations of the claims upon which they are based. In the office action, claims 1-2 and 6 stand rejected under 35 USC §102(b). Specifically, claim 1 is rejected as being anticipated by Courian 4,843,736 (the “763” patent). Applicants respectfully traverse this rejection. The ‘763 patent discloses a sandal having a strap that passes through only a portion of the inner sole. As best illustrated in Figure 5, the strap does not pass through even half of the sole, and exits the inner sole through the top surface of the sole. In particular the portion of the strap that passes through the inner sole is located under the big-toe region of the sandal. In contrast, amended claim 1 of the present application states that the channel passes completely across the sole, and that the channel is located at the mid-foot portion of the sole. The '763 patent does not teach a channel located at the mid-foot portion of the sole, that passes completely across the sole. Therefore, the '763 patent does not anticipate claim 1 of the captioned patent application and Applicants respectfully request withdrawal of this rejection.

Claims 2 and 6 are rejected as being anticipated by Saltsman 4,817,302 (the “302” patent). Applicants respectfully traverse this rejection. The ‘302 patent discloses a sandal having a strap that passes through the inner sole at a position located under the ball of the foot, or in other words, the fore foot region of the sandal. In contrast, claims 2 and 6 of the present invention state that the channel extends transversely across the midfoot portion of the sole. Thus, the ‘302 patent does not disclose each and every element of the present invention and Applicants respectfully request withdrawal of this rejection.

Claim 6 is rejected as being anticipated by Smith 2,259,273 (the "273" patent). Applicants respectfully traverse this rejection. The '273 patent discloses a sandal with straps that cross each other over the forward portion of the foot. See Figures 1 and 2, reference number 22. In contrast, claim 6 of the present invention recites the "X-strap assembly forming an X-configuration over the user's instep". Clearly, the crossing of the straps of the '273 patent is not located over the user's instep. Thus, the '273 patent does not disclose each and every element of the present invention and Applicants respectfully request withdrawal of this rejection.

Furthermore, the '273 patent discloses a sandal with straps that start at a heel portion and pass through the sole from a first side to a second side, then pass over the fore foot from the second side to the first side, then pass through the sole through the toe portion of the sole from the first side to the second side, then pass over the fore foot from the second side to the first side (crossing the straps over the forward portion of the foot), then pass through the sole from the first side to the second side (crossing the straps under the mid-portion of the foot), and then ending at a heel portion on the second side. In contrast, claim 6 as amended reads in part:

an X-strap assembly coupled to said heel portion, wherein said X-strap assembly includes a continuous strap having a first portion extending transversely across the user's instep from said heel portion on a first side of the footwear to a second side, a second portion extending through said transverse passageway from said second side to said first side, and a third portion extending transversely across the user's instep from said first side to a heel portion on said second side of said footwear, said first and said third portions of said X-strap assembly forming an X-configuration over the user's instep . . .

Thus, because the strap assembly of Smith follows an entirely different pattern, each and every element of the claimed invention is not disclosed by the '273 patent and Applicants respectfully request withdrawal of this rejection.

In view of the foregoing, Applicants believe that all pending claims as amended are allowable over the prior art of record. Therefore, reconsideration of the application and allowance of all pending claims is requested. The Examiner is invited to telephone the undersigned at the telephone number listed below to discuss any of the foregoing in greater detail or to otherwise expedite the prosecution of the application.

Attached hereto is a marked-up version showing the changes made to the claims by the current Amendment. The attached page is captioned "**VERSION WITH MARKINGS TO SHOW CHANGES MADE**"

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Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

The claims are amended as follows:

1. (Once Amended) An X-strap assembly for securing an article of footwear to the instep of a foot, said footwear having a sole and channel through said sole, said X-strap assembly comprising:

- a) a strap attached at its respective ends to medial and lateral heel sides of said footwear, said strap having a first portion extending in a forward direction transversely across the instep from a first side of said footwear to a second side, a second portion extending through said channel, and a third portion extending in a rearward direction transversely across the instep [from said instep] from said first side to said second side of said footwear, said first and said third portions forming an X-configuration over said instep; wherein said channel is located at the mid-foot portion of the sole, and wherein said channel passes completely across the sole; and
- b) a fastener attached to said strap.

2. (Once Amended) An article of footwear, comprising:

- a) a sole, the sole having a midfoot portion and a heel portion;
- b) a channel extending transversely across the midfoot portion of said sole;
- c) an instep strap connected to said heel portion of said sole, said instep strap having a first portion extending in a forward direction transversely across a wearer's instep from one side of said sole to the other, a second portion extending through said channel and slidable within said channel, and a third portion extending in a rearward direction transversely across the wearer's instep from said one side of said sole to said other side of said sole, the first and third portions of said instep strap forming an X configuration over the wearer's instep, and the second portion being between the first and third portions of said instep strap; and
- d) an adjustable fastener attached to said instep strap for adjusting said instep strap.

6. (Once Amended) A footwear product to be worn by a user on the user's foot, comprising:

- a) a sole, the sole having a midfoot portion;
- b) a transverse passageway extending through said midfoot portion of said sole;
- c) a strap system configured to secure the footwear product to the user's foot including:
a heel portion,

an X-strap assembly coupled to said heel portion, wherein said X-strap assembly includes a continuous strap having a first portion extending transversely across the user's instep from said heel portion on a first side of the footwear to a second side, a second portion extending through said transverse passageway from said second side to said first side, and a third portion extending transversely across the user's instep from said first side to a heel portion on said second side of said footwear, said first and said third portions of said X-strap assembly forming an X-configuration over the user's instep, and

an adjustable fastener for adjusting the length of said X-strap assembly.